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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/644,458
Filing Date: August 20, 2003
Appellant(s): CROW ET AL.

Scott A. Quellette, Esq. (Reg. No. 38,573)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/07/2008 appealing from the Office action mailed 04/06/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2004/0133570	SOLTIS	07/08/2004
Applicant's admitted Prior Art/background	Background and Fig. 1	

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 4-6, 13-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Background of the invention of this Application Specification and Fig. 1 (hereinafter as Background and Fig. 1) in view of Pub. No.: US 2004/0133570 A1 of Soltis (continuation of application No.: 09/045,340, filed on MAR. 20, 1998).

With respect to claim 1, Background and Fig. 1 teaches a memory storage device having an operating system which uses at least one inode for accessing file segments (UNIX Operating System, an computer system storing a sequence of file segments and each file segment occupies a consecutive sequence of physical storage blocks and I-nodes: see Fig.1 (Prior Art)), the inode comprising:

a plurality of rows (Fig.1, I-node 1 and I-node 2, each has a plurality of rows or extents); and

a portion of the rows storing extents pointing to data blocks (the storage addresses of the segments by an address pointer and a length. The address pointer indicates the physical address of the data block (see blocks 55-58, and block 97).

Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. And each I-node comprises a plurality of rows or extents. Background and Fig. 1 does

not explicitly teach each extent having a field to indicate whether the extent is an indirect extent, a hole extent or a direct extent as claimed.

However, Soltis teaches each extent may address several consecutive device data blocks and each extent includes a flag or a filed to indicate the type of that extent (paragraphs 0079-0083).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Background and Fig. 1 with the teachings of Soltis. One having ordinary skill in the art would have found it motivated to utilize the use of the field or flag indicating the type of extent for each extent extents as disclosed (Soltis' paragraph 0079), into the system of Background and Fig. 1 for maximize storage efficiency of a memory storage system device, thereby, providing a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

With respect to claims 2 and 4, Background and Fig. 1 teaches a memory storage device having an operating system as discussed in claim 1.

Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length.

And each I-node comprises a plurality of rows or extents. Background and Fig. 1 does not explicitly teach wherein each I-node is adapted to allow any portion of extents sorted therein to be indirect extents and the number of data blocks pointed to indirect extent as claimed.

However, Soltis teaches direct and indirect extents and data blocks (indirect extent pointer: paragraphs 0126-0127 and see page 11, claim 50 and paragraph 0010).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Background and Fig. 1 with the teachings of Soltis. One having ordinary skill in the art would have found it motivated to utilize the use of the field or flag indicating the type of extent for each extent extents as disclosed (Soltis' paragraph 0079), into the system of Background and Fig. 1 for maximize storage efficiency of a memory storage system device, thereby, providing a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

With respect to claim 5, Background and Fig. 1 teaches an automated method of storing data files in a memory storage system (UNIX Operating System, an computer system storing a sequence of file segments and each file segment occupies a consecutive sequence of physical storage blocks and I-nodes: see Fig.1 (Prior Art)), the inode comprising:

assigning an I-node to a data file to be stored and writing a plurality of extents in the I-node, each extent pointing to a string of one or more data blocks for storing a segment of the data file (Fig.1, I-node 1 and I-node 2, each has a plurality of rows or extents; and the storage addresses of the segments by an address pointer and a length. The address pointer indicates the physical address of the data block (see blocks 55-58, and block 97).

Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. And each I-node comprises a plurality of rows or extents. Background and Fig. 1 does not explicitly teach each extent having a field to indicate whether the extent is an indirect extent, a hole extent or a direct extent as claimed.

However, Soltis teaches each extent may address several consecutive device data blocks and each extent includes a flag or a filed to indicate the type of that extent (paragraphs 0079-0083).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Background and Fig. 1 with the teachings of Soltis. One having ordinary skill in the art would have found it motivated to utilize the use of the field or flag indicating the type of extent for each extent extents as disclosed (Soltis' paragraph 0079), into the system of Background and Fig. 1 for maximize storage efficiency of a memory storage system device, thereby, providing a

file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

With respect to claim 6, Background and Fig. 1 teaches a memory storage device having an operating system as discussed in claim 1.

Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. And each I-node comprises a plurality of rows or extents. Background and Fig. 1 does not explicitly teach replacing each of a plurality of the direct extents by at least one indirect extent pointing to a data block and writing to each data block pointed to by one the indirect extents the direct extent that is replaced by the one indirect extents as claimed.

However, Soltis teaches direct and indirect extents and data blocks (indirect extent pointer: paragraphs 0126-0127 and see page 11, claim 50 and paragraph 0010).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Background and Fig. 1 with the teachings of Soltis. One having ordinary skill in the art would have found it motivated to utilize the use of the field or flag indicating the type of extent for each extent extents

as disclosed (Soltis' paragraph 0079), into the system of Background and Fig. 1 for maximize storage efficiency of a memory storage system device, thereby, providing a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

With respect to claim 13, Background and Fig. 1 teaches a plurality of data storage device, each operating system including an extent based file system for abstracting file names to physical data blocks in the storage device, wherein each extent includes a field to indicate whether the extent points to a block of extents or a block of data (Fig.1, I-node 1 and I-node 2, each has a plurality of rows or extents; and the storage addresses of the segments by an address pointer and a length. The address pointer indicates the physical address of the data block (see blocks 55-58, and block 97).

Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. And each I-node comprises a plurality of rows or extents. Background and Fig. 1 does not explicitly teach a global cache memory and each extent having a field to indicate whether the extent is an indirect extent, a hole extent or a direct extent as claimed.

However, Soltis teaches cache memory (fig. 2 and paragraphs 0007, 0025 and 0063) and each extent may address several consecutive device data blocks and each extent includes a flag or a filed to indicate the type of that extent (paragraphs 0079-0083).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Background and Fig. 1 with the teachings of Soltis. One having ordinary skill in the art would have found it motivated to utilize the use of the field or flag indicating the type of extent for each extent extents as disclosed (Soltis' paragraph 0079), into the system of Background and Fig. 1 for maximize storage efficiency of a memory storage system device, thereby, providing a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

With respect to claims 14 and 16, Background and Fig. 1 teaches a memory storage device having an operating system as discussed in claim 13.

Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. And each I-node comprises a plurality of rows or extents. Background and Fig. 1 does

not explicitly teach wherein each operating system is adapted to map files to data blocks by assigning an I-node to a file, each I-node capable of storing a plurality of extents and each operating system being a Unix based system as claimed.

However, Soltis teaches Unix based operating system and data blocks and a list of extents that address data blocks (paragraphs 0079, 0010, 0095 and 0037).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Background and Fig. 1 with the teachings of Soltis. One having ordinary skill in the art would have found it motivated to utilize the use of the field or flag indicating the type of extent for each extent extents as disclosed (Soltis' paragraph 0079), into the system of Background and Fig. 1 for maximize storage efficiency of a memory storage system device, thereby, providing a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

(10) Response to Argument

Appellant's arguments regarding the rejection of claims 1, 2 and 4-6, 13-14 and 16:

Argument 1: Soltis does not teach or suggest the "field to indicate whether the extent is an indirect extent, a hole extent or a direct extent." (Page 12, The Brief).

Argument 2: Soltis does not teach or suggest the "the desirability of a field in an extent that is capable of indicating whether the extent is an indirect, a hole or direct extent." (Page 13, The Brief).

Argument 3: "it is clear that there is no support in Soltis' specification for an "indirect extent pointer." (Page 13, The Brief).

Argument 4: "there is no teaching or suggestion of a flag or field in the Soltis extent to indicate that the extent is one of an indirect extent, a hole extent, and a direct extent." (Page 15, The Brief).

Argument 5: "there is no teaching or suggestion in Soltis of the desirability of making his extent capable of indicating that the extent is one of an indirect extent, a hole extent, and a direct extent." (Page 15, The Brief).

Argument 6: "Soltis also does not teach or suggest the desirability of a field in an extent that is capable of indicating that the extent is one of an indirect extent, a hole extent, and a direct extent." (Page 16, The Brief).

Argument 7: "there is no mechanism taught or suggested by Soltis that indicates that the extent is one of an indirect extent, a hole extent, and a direct extent." (Page 16, The Brief).

Argument 8: “there is no teaching or suggestion in Soltis of the desirability of such a field.” (Page 16, The Brief).

Argument 9: Soltis teaches away from the combination suggested by the examiner and the combination of the background and Soltis does not teach the invention recited in dependent claim 5.” (Page 16, The Brief).

Argument 10: “Soltis does not teach or suggest the “field to indicate whether the extent is an indirect extent, a hole extent or a direct extent.” (Page 18, The Brief).

Argument 11: “there is no teaching or suggestion of a flag or field in the Soltis extent to indicate whether the extent is an indirect extent, a hole extent or a direct extent.” (Page 18, The Brief).

Argument 12: “Soltis teaches away from the combination suggested by the examiner.” (Page 18, The Brief).

Argument 13: “even though Soltis then states that a combination of both approaches “could satisfy extreme cases,” he never teaches how such a combination would be configured or why it should be desirable.” (Page 18, The Brief).

Argument 14: “Soltis does not teaches or suggest the desirability of a field in an extent that is capable of indicating whether the extent is an indirect extent, a hole extent or a direct extent.” (Page 19, The Brief).

Argument 15: “there is no mechanism taught or suggested by Soltis that indicates that the extent is one of an indirect extent, a hole extent, and a direct extent.” (Page 19, The Brief).

Argument 16: "there is no teaching or suggestion in Soltis of the desirability of such a field." (Page 19, The Brief).

Argument 17: "Soltis teaches away from the combination suggested by the examiner and the combination of the background and Soltis does not teach the invention recited in dependent claim 5." (Page 19, The Brief).

Argument 18: "the rejection of independent claim 13 under 35 USC § 103(a) is improper." (Page 19, The Brief).

Examiner's Response to Arguments:

In response to appellant's argument, Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1]

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). The court found that applicant was advocating ... the impermissible importation of subject matter from the specification into the claim.). See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement

suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

In response to arguments 1, 2, 4, 5, 6, 7, 10, 11, 14, 15, 16:

In response to Appellants' arguments, Examiner respectfully disagrees as Soltis teaches as shown in fig. 5, and TABLE 1 in page 9, right column, each inode file 180 contains a list of extents that address data blocks storing file data. Each extent 184 may address several consecutive device data blocks. To indicate all the necessary addressing information, each extent 184 includes a flag, the segment number of the segment containing the real-data, the block offset into the segment, and the number of blocks within the extent that contain real-data. The flag determines whether or not the extent addresses real-data or a hole in the file. The flag categorizes three types of data type stored in a data block: with value of 0 for invalid extent (extent or indirect extent), 1 for valid data (real data or direct extent) and 2 for hole (non-data or hole extent). Also, each extent may address several consecutive device data blocks and each extent includes a flag or a filed to indicate the type of that extent (paragraphs 0079-0083). The

addressing of real data is information for data block pointed to by an extent, that is an empty file has a file size of zeroes, also for allocating or de-allocation files (paragraphs 0082 and 0090), verifying the consistency of each extent by checking for extent flags (paragraphs 0104, 0127 and see table 1 on page 9).

In response to argument 3:

In response to Appellants' arguments, Examiner respectfully disagrees as Soltis teaches data on a storage device is generally block accessible, in that data is addressed with the smallest granularity of a block; with multiple blocks forming an extent. FIG. 5 illustrates an inode file 180. Each inode file 180 maintains information pertaining to a single SFS 124 regular file stored on an NAS device 110. Since MFS 132 treats inode files 180 as real-data, MFS 132 maintains file attributes for each file, such as file name, ownership, access privileges, access, creation, and modification times, and file size. Inodes contain information, called attributes, about a particular file, such as file type, ownership information, access permissions and times, and file size. Inodes also contain a list of pointers which address data blocks. These pointers may address single data blocks or address an extent of several consecutive blocks. The addressed data blocks contain either actual data or a list of other pointers. With the information specified by these pointers, the contents of a file can be read or written by an application program. When an application program writes to a file, data blocks may be allocated by the file system. Each inode file 180 contains a list of extents that address data blocks storing file real-data. To minimize meta-data space, each extent 184

may address several consecutive device data blocks. To indicate all the necessary addressing information, each extent 184 includes a flag, the segment number of the segment containing the real-data, the block offset into the segment, and the number of blocks within the extent that contain real-data. The flag determines whether or not the extent addresses real-data or a hole in the file. As a result, each inode file 180 also contains a fixed-size header 182 for such attributes and any additional information not maintained by MFS 132, such as the number of extents in the inode. Each extent 184 may address several consecutive device data blocks. To indicate all the necessary addressing information, each extent 184 includes a flag, the segment number of the segment containing the real-data, the block offset into the segment, and the number of blocks within the extent that contain real-data. The flag determines whether or not the extent addresses real-data or a hole in the file. The flag categorizes three types of data type stored in a data block: with value of 0 for invalid extent (extent or indirect extent), 1 for valid data (real data or direct extent) and 2 for hole (non-data or hole extent). (paragraphs 0007, 0010, 0014 and 0078-0083).

In response to argument 8:

In response to Appellants' arguments, Examiner respectfully disagrees as Soltis teaches as shown in TABLE 1 in page 9, right column, each inode file 180 contains a list of extents that address data blocks storing file data. each extent 184 may address several consecutive device data blocks. To indicate all the necessary addressing

information, each extent 184 includes a flag, the segment number of the segment containing the real-data, the block offset into the segment, and the number of blocks within the extent that contain real-data. The flag determines whether or not the extent addresses real-data or a hole in the file. The flag categorizes three types of data type stored in a data block: with value of 0 for invalid extent (extent or indirect extent), 1 for valid data (real data or direct extent) and 2 for hole (non-data or hole extent).

In response to argument 9, 12, and 17:

In response to Appellants' arguments, Examiner respectfully disagrees as Background and Fig. 1 teaches a file system that UNIX operating systems employs to translate between abstract file names and physical storage addresses. The consecutive extents of each I-node correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. And each I-node comprises a plurality of rows or extents. While Soltis teaches each extent may address several consecutive device data blocks and each extent includes a flag or a filed to indicate the type of that extent (paragraphs 0079-0083). Also, Soltis teaches information required to map a particular file or directory to the physical locations of the storage device is stored by the file system in an inode within a data block. Inodes contain information, called attributes, about a particular file, such as file type, ownership information, access permissions and times, and file size. Inodes also contain a list of pointers which address data blocks. These pointers may address single data blocks or

address an extent of several consecutive blocks. The addressed data blocks contain either actual data or a list of other pointers. With the information specified by these pointers, the contents of a file can be read or written by an application program. When an application program writes to a file, data blocks may be allocated by the file system. Such allocation modifies the inode (paragraphs 0007-0008 and 10-0011). One having ordinary skill in the art would have found it motivated to modify the teachings of Background in the instant specification with the teachings of Soltis. Because both are from the same field of endeavor and both are directed to extent and file system that would provide a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023).

In response to arguments 13 and 18:

In response to applicant's argument, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to Appellants' arguments, Examiner respectfully disagrees as FIG. 1 in the instant specification illustrates a file system that UNIX based systems employ to translate between abstract file names and physical storage addresses. The file system performs translations with the aid of two types of structures, which are stored on a data storage 20 device 10. The first type of structure is a directory 12, which maps abstract directory names and file names to other directories 13 and index nodes (inodes) 15, 16, respectively. The second type of structure is the inode 15, 16, which maps abstract file segments to the physical data blocks 17, 17a, 17b storing the segments. The inodes 15, 16 include lists of extents 21-27. By definition, the consecutive 25 extents 21-24 of each inode 15 correspond to consecutive file segments and indicate the storage addresses of the segments by an address pointer and a length. The address pointer indicates the physical address of the first data block, for example, blocks 55, 59, storing the file segment. The length indicates the number of consecutive data blocks assigned to store the segment. For example, the extent 21, which points to the address of the data block 55 and has length three, and includes the three data blocks 55-57. Each inode 15, 16 can also include one or more special extents 24, 27 stored at special positions of the inode 15, 16, that is, the last rows allocated in the inodes for 5 extents. The special extents 24, 27 point to data blocks that store additional extents. The last extent 28 of the data block 95 can also be a special extent thereby providing for 10 further extensions of the end of the file. While Soltis teaches cache memory (fig. 2 and paragraphs 0007, 0025 and 0063) and each extent may address several consecutive device data blocks and each extent includes a flag or a filed to indicate the type of that

extent (paragraphs 0079-0083). File systems are generally responsible for maintaining a disk cache. Caching is a technique to speed up data requests from application programs by saving frequently accessed data in solid-state memory for quick recall by the file system without having to physically retrieve the data from the storage device. Caching is also useful during file writes; file system may write user data to cache memory and complete the request before the data is actually written disk storage Distributed files systems have been developed in order to make shared data available to multiple computer systems over a computer network. Distributed file systems provide users and applications with transparent access to files and data from any computer connected to the file system (each computer has at one processor coupled to the cache memory: paragraphs 0007 and 0014-0015). One having ordinary skill in the art would have found it motivated to modify the teachings of Background in the instant specification with the teachings of Soltis. Because both are from the same field of endeavor and both are directed to extent and file system that would provide a file system for network data servers that is specifically designed to efficiently and reliably control the storage and access of remote files on remote secondary storage system, and can provide for the flexibility to support future developments that will increase the speed and usage of distributed computer network environment (Soltis's paragraphs 0005-0007 and 0021-0023). Moreover, the examiner kindly submits that the applicants misread the applicable references used in the last office action. However, when read and analyzed in light the specification, the invention as claimed does not support applicant's assertions. Actually, applicants are interpreting the claims very narrow

without considering the broad teaching of the references used in the rejections. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Anh LY/
ANH LY (Examiner 2162)
March, 5th, 2008

Conferees:

EDDIE LEE (TQAS/Appeals Specialist, TC 2100)

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